

The Madison County Board of Zoning Appeals met on the above date at 9:00 A.M. with, Mary Jane Baker, Chairman, presiding.

Members Present: Mary Jane Baker, Bill Maxwell, Rick Durham, Albert Stewart and Bill Hobbs.

Members Absent: None. Cory Wilson, Director (attending the American Planners Association National Conference in Minneapolis).

Also Present: Judy King, Plan Reviewer, Gerald Shine, Jr., Attorney, and Beverly Guignet, Secretary.

## **CURRENT BUSINESS**

1. Roll call was taken and all members were present.
2. The minutes of the preceding meetings were distributed to each member prior to the meeting. Member Maxwell made a motion to approve the minutes with the corrections as stated. Member Hobbs seconded the motion. The vote was unanimous in favor of the motion.

## **Continued Petitions**

1. **Petition:** **2009-V-002 Zoning: AG**  
**Address:** 6723 West Fall Creek Drive  
**Location:** South side of Fall Creek Drive, west of CR 600 West.  
**Petitioner:** Ferge, James & Viola  
**Request:** Lot #3 - A variance of the development standards to provide for the construction of a single-family dwelling in a lot without road frontage (200' road frontage is req).  
Lot #2 - A variance of development standards to legally establish an accessory structure 17' from the east property line (minimum 25' side setback required) without a primary structure (residential lots required to be improved with a dwelling).  
Lot #1- A variance of development standards to legally establish a swimming pool located zero feet from east property line (minimum 25' side setback required).

James Ferge, 6723 West Fall Creek Drive.

Mrs. King informed the Board staff has recommended denial.

Mr. Ferge told the Board his intentions are still the same. His brother wants to buy the existing house and he wishes to build a new house back in the woods and that's why the pool is where it's at.

It was still the concern of the Board that additional land cannot be purchased to make up the 50 foot easement back to the property and that the Board wants only two lots instead of the three being requested.

Mr. Ferge told the Board he wants the three lots and has no way of purchasing the extra ground to make the width of 50 feet all the way to the back lot.

Mr. Ferge again was informed it has all ways been the policy of the Board that there has to be 50 feet in width for any access way back to a property. Also, they felt the setback to the barn is just not going to be adequate. The driveway would have to tie in to the back parcel.

If you go with three parcels, where the existing house is now and where the swimming pool bisects that property line. That's only a one acre parcel and that doesn't meet the minimum requirements of the zoning district. You have a pool with the property line through it. Also, accessory structures without a primary dwelling somehow turn in to businesses. It lends itself to some sort of commercial activity.

Mr. Shine stated it was recommended at last month's meeting that this could be considered by the Board for a two lot division but a three lot it would not with the current location of the structures and of the boundary lines.

Tom Walker, 6657 W Fall Creek Drive.

Mr. Walker lives adjacent to Mr. Ferge on the east side.

Mr. Walker stated they had an issue with Mr. Ferge as to the driveway. We have lived at this location for 17 years. He built a driveway and a wall that is elevated by our property which leaves no way to maintain it. We sold him a strip so he could maintain the wall. We are worried about the drainage. We are against this request.

Mr. Shine informed the Board that Mr. Ferge was told at the last meeting to submit a two lot plan. We have nothing that shows a two lot plan. They did change the lot line to go around the pool but we do not have a two lot plan. If you listen to the petitioner it appears to me he is not wanting to submit the two lot plan.

Member Maxwell made a motion for Lot 1, Variance of Development Standards to legally establish the swimming pool, zero feet from property line. I would move to approve that because that actually puts the pool on Lot 1 no matter what happens to Lots 2 and 3. The deed would have to be updated and the rest of it.

**Member Maxwell withdrew his motion.**

Mr. Ferge told the Board he did make a two parcel drawing but it was not presented to the Board.

Member Maxwell moved to table Petition #2009-V-002 until the May meeting and this shall be re-advertised.

Member Hobbs seconded the motion.

The vote was unanimous in favor of the motion. **Petition #2009-V-002 was tabled.**

### **New Business**

1. **Petition:**           **2009-SU-002   Zoning: AG**  
Address:           8848 West Eighth St. Road, Anderson  
Location:          North side of Eighth St. Road approximately ¼ mile east of CR 900 West  
Petitioner:       Bracken, Andrew  
Request:           Special Use Grant to provide for the construction of a single-family dwelling on a lot with an existing dwelling. Petitioner agrees to remove existing dwelling at the completion of the new dwelling.

Andrew Bracken, 8848 W 8<sup>th</sup> Street Road, Anderson, IN.

Mr. Bracken told the Board they want to build a new house to the east of their existing house. But, at the same time they want to reside in the existing house. The existing house needs more repair than what it would cost to build a new one. They would like to live in the existing house to keep watch over the construction of the new house and the existing house would be torn down when the new one is completed.

Mr. Bracken said he would be willing to sign an affidavit stating the existing house would be torn down 30 days after completion on the new dwelling.

The new house will be a single family dwelling with a walk out basement. The fence will be removed.

There were no remonstrators present.

Member Hobbs moved to approve Petition #2009-SU-002 on the bases it does not prove to be injurious to public health, safety, morals and general welfare. The requirements will be met. All setbacks and other standards are being met. Will not adversely injure other property uses in the district. Surrounding lots are all developed in residential dwellings. The proposed use will be consistent with the character of the zoning district and the Comprehensive Plan.

Also, the petitioner remove the existing dwelling within 30 days of completion of the new home and that he sign an affidavit with the Planning Department that he will do so. (See attachment)

Member Maxwell seconded the motion.

The vote was unanimous in favor of the motion. **Petition #2009-SU-002 was approved.**

2. **Petition:**           **2009-SU-003   Zoning: AG**  
Address:           000 West CR 1650 North (Vacant Land)

Location: South side of CR 1650 North, approximately 1/3 mile west of CR 200 West  
Petitioner: Bair, Joshua and Amy  
Request: Special Use Grant to provide for the construction of an accessory structure prior to the construction of a primary structure on a lot that will be used for residential purposes.

Joshua and Amy Bair, 312 Edgewood Drive, Alexandria.

Mrs. Bair informed the Board this is their address where they live but they own the property on 1650N where they would like to build the barn.

My husband wants to build the barn on this land first so we can prepare to our build house. We would like to store our lawn mowers and building supplies while we are selling our house in Alexandria. The barn will be a 24' x 36' and will be built on the southeast corner of the property. This will only be used for storage and not as living quarters. There will be no electricity or water going to the barn.

Fred Bair, 2253 W 1650N.

Mr. Bair told the Board this is family ground that was split so they could build their house and barn. And he had no problems with this at all.

There were no remonstrators present.

Member Maxwell moved to approve Petition #2009-SU-003. It would not be injurious to the public health, safety, morals and general welfare of the community. Will meet all the setbacks. The surrounding properties are farm activities and large lot single family dwellings. It meets the Comprehensive Plan. Staff recommended approval. No water, septic or electricity shall be on this property until the home is built. Shall have no outside storage on the property.

Member Hobbs seconded the motion.

The vote was unanimous in favor of the motion. **Petition #2009-SU-003 was approved.**

3. **Petition: 2009-SU-004**

Address: CR 350 East  
Location: West side of CR 350 East, approximately ¼ mile north of CR 500 North  
Petitioner: Richwine, Eric and Leigh Ann (Esta M. Adams Revoc. Trust)  
Request: Special Use Grant to provide for the development of a horse boarding and breeding facility.

Leigh Ann Richwine, lives in the Eastwood Addition.

Mrs. Richwine told the Board as the proposed purchaser they are requesting that at 5255 N 350E, an agricultural use. They are requesting this to allow them to run a horse stabling and breeding farm. This will be for thoroughbred quarter horses breeding. Most stables in this area are at capacity and are turning away business.

They will have a partner who has 42 years of horse experience and ten years of breeding experience. This is intended to be a family business. Eventually we would like to build our house at this location.

The Board was informed this is lot 4 of the Esta Adam Administrative Plat. It consists of 39.218 acres. An additional split was requested to be off this but was denied.

Mrs. Richwine stated they currently have plan for an indoor riding facility. Looking at similar businesses we are primarily looking at horse breeding, and stabling. A lot of the owners are not on site on a regular base. They are looking for someone to take care of their mares and stallions. There will not be a lot of traffic coming and going each day.

The waste will be kept up on a regular bases. The manure piles will be put on a spreader and used as fertilizer.

It was asked if there were any legal drains.

Patrick Manship, County Surveyor told the Board. There is a drain south of this site that goes south that's in bad shape. This property does not drain south. It is his understanding that it drains east. Where this goes across 350 he felt this was Little Killbuck Creek. No legal drain could be found on the site. This would still have to go through the Drainage Board.

Melanie Dunn, 5415 N 350E.

Mrs. Dunn told the Board she would like the area to stay agricultural. Her concerns are the breeding and boarding facility. We find they are having trouble finding people to rent their stalls. She is concerned this is something that there may not be a need for in this area.

Randy Dunn, 5415 N 350E.

Mr. Dunn stated his property is just north of this property. His concerns are the breeding and boarding, their experience, drainage, traffic, the road condition, the noise, and what if their partnership would break up. Also, if they had 25 horses there would not be enough ground. There are several facilities in Madison County already and some of them are up for sale.

Amy Junkersfield, 5840 N 300E.

Mrs. Junkersfield told the Board she lives to the south and her concerns are, drainage, traffic and she also has the same concerns as the Dunn's.

Mile Harvey, 5266 N 200E.

Mr. Harvey told the Board his concerns are drainage and the flowing wells.

Mrs. King told the Board staff recommends approval on the condition they are to come back to the Board one year from the issuance of the Improvement Location Permit for review.

Mrs. Richwine informed the Board they wish to build the house and barn towards the middle of the property on the east side.

There will be approximately 20 stalls. An additional building will probably be built to house the hay or it will be covered. Grain will be stored in a smaller shed. The barn for the horses will be 80' x 100' and we will add the stalls as money allows. The perk test has been done and they have obtained Health Board approval.

As money allows they will be fencing an area for the horses. They are looking in to different type of fencing. In fact there will be several areas that will be fenced for different uses.

It is not intended to keep the horses there until their new house is built but, they want to start construction of the barn as soon as the money would allow.

Mrs. Richwine was informed they would still have to come back before the Board for approval if they wish to build the barn before the house.

Member Maxwell moved to approve Petition #2009-SU-004 per staff recommendation. It is not injurious to the health, safety, morals or general welfare of the community. All setbacks have been met. It is agricultural land all around this property. This land is zoned agricultural and this is allowed with a Special Use. Also, the following conditions shall apply; Shall not be training center, only boarding and breeding, no living quarters in the barn, to come back in one year for an evaluation, manure to be removed from the property, no outside storage, everything shall be under roof, the residence shall be built first, all permits shall be obtained and manure to be handled by a waste disposal company.

Member Durham seconded the motion.

The vote was unanimous in favor of the motion. **Petition #2009-SU-004 was approved.**

4. Miscellaneous: Mr. Shine told the Board concerning the K.C.C.A. we still have two pieces of litigation ongoing. The one is litigation is for the constitutionality of the legislation that was recently passed on landfills. The other is still pending in Hamilton County and it is our understanding that is going to be put on hold until the time that this constitutionality question is answered.

Member Durham made a motion, seconded by Member Maxwell to adjourn. The vote was unanimous in favor of the motion.

Adjournment: 10:56:16 A.M.

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Mary Jane Baker, Chairman

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Beverly Guignet, Secretary

